IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

ORDER

Kashi Ram Versus State of Rajasthan.

S.B.CRIMINAL REVISION NO. 493/04
against the Order dt. 7.5.04 passed
by Additional Session Judge (No.1)
Sriganganagar in Cr.Appeal No.36/04.

Date of Order : 21/2/2005

PRESENT

HON'BLE MR. H.R.PANWAR, J.

Mr.M.K.Garg Amicus Curiae for the petitioner.
Mr. J.P.S.Choudhary, Public Prosecutor for the State.

BY THE COURT:-

This criminal revision has been filed by the petitioner through jail. From the application filed by petitioner Kashiram it appears that the applicant is undergoing the sentence for life imprisonment at Central Jail, Sriganganagar.

By the instant revision petition, the petitioner has challenged the order dated 7.5.04 passed by the Additional Sessions Judge, No.1, Sriganganagar in criminal Appeal No. 36/04 whereby the appellate court dismissed the

appeal filed by the petitioner against the judgment and order dated 23.2.2004 convicting the petitioner for the offences under Sections 323, 147 and 148 IPC r/w Section 149 IPC along with other co-accused namely Satish Kumar, Indraj, Vijaykumar and Ramesh Kumar @ Rakesh Kumar. However, instead of sentencing the petitioner and the other co-accused to imprisonment at once, they were granted benefit of Section 4 of the Probation of Offenders Act, 1958 and were directed to be released on probation provided each of them furnishes a personal bond in the sum of Rs. 2000/- with a surety of like amount to the satisfaction of trial court for maintaining peace and tranquility and be of good behaviour and shall not repeat such act. Under Section 5 of the Probation of Offenders Act, the petitioner and other co-accused were directed to deposit Rs. 200/- each as compensation and on such deposit, it was directed to be paid to injured Khetpal and Smt. Sumitradevi.

I have heard learned Amicus Curiae appearing for the appellant and public prosecutor for the State. I have carefully gone through the judgment and order passed by the trial court as well as by the appellate court.

Before the trial court PW-1 Khetpal, PW-2 Sumitradevi, PW-5 Rajkumar were examined as injured eye witnesses. The

injuries suffered by the injured persons have been proved by Doctor PW-6 O.P.Sharma.

PW-1 Khetpal has stated that prior to 15-20 ays of the occurrence, he and his brother Mahaveer made a complaint to petitioner Kashi Ram as his son and nephews used to annoy complainant's daughter Miss Arjana, on which the petitioner started harbouring ill-will against them. On the relevant date of the occurrence, he and his wife PW-2 Sumitra heard some noise from the street situated between his house and the house of the petitioner. They reached at the spot and saw that petitioner Kashi Ram, his brother Indra Raj, son Rakesh and nephews Vijay and Satish were beating his brother Mahaveer. According to this witness, Ramesh had a pipe whicle petitioner Kashi Ram and other accused had Lathis. He saw bleeding oozing out from the head of Mahaveer. When he and his wife PW-2 Sumitra tried to intervene, petitioner's son Rakesh alias Ramesh caused injuries on his head and shoulder, whereupon he fell down to the ground. Satish inflicted an injury by a knife below the thumb of her left hand. Thereafter all these persons started beating them. Petitioner Kashi Ram told his brother Indra Raj to bring a gun, who brought the gun which was caught-hold by Mahaveer. On hearing the cries, Raj Kumar and Om Prakash Sharma came there, upon which the accused persons ran away.

In cross-examination, this witness has accepted that petitioner Kashi Ram also sustained injuries and he remained admitted in the hospital where the witness was also admitted.

Similar is the statement of PW-2 Smt. Sumitra. However, in her examination-in-chief, she has further stated that the accused persons snatched her ear-rings and chain. She has stated that Raj Kumar, Om and Manoj came there and rescued them.

Nothing could be elicited from these witnesses despite lengthy cross-examination which may shake their testimony.

The allegation against the present petitioner is that the petitioner's nephew and sons 15-20 days earlier before the occurrence outraged the modesty of daughter of the witness PW-2 Sumitradevi while she was going to school. PW-5 Ramkumar also stated that the present petitioner Kashiram and other co-accused Rakesh, Vijay, Satish and Indraj inflicted injuries to injured eye witnesses. PW-6 Dr. O.P.Sharma examined injured eye witnesses PW-1 Khetpal and PW-2 Sumitradevi and proved the injuries suffered by them. Injured Khetpal suffered two injuries by blunt object. PW-4 Dr. B.M.Sharma has proved the injuries suffered by PW-2

Sumitradevi. The injuries suffered by this witness were simple in nature. Thus, from the statement of injured eye witnesses it is established that it is the petitioner and other co-accused who formed unlawful assembly and caused injuries to the injured PW-1 Khetpal, PW-2 Sumitradevi and Mahaveer Prasad. The statement of injured witnesses is fully corroborated by the medical evidence. The trial court on proper appreciation of evidence convicted the petitioner and other co-accused. The appellate court on re-appreciation of the evidence came to the conclusion that the finding of the trial court is in accordance with law and calls for no interference.

On close scrutiny of the entire record, I am of the view that prosecution has been able to establish the case against the present petitioner and the co-accused. It cannot be said that the conclusion arrived at by the courts below is erroneous warranting interference in revisional jurisdiction. I do not find any merit in the revision petition and the same is dismissed accordingly.

A copy of this order be sent to the accused petitioner.

(H.R.PANWAR),J.

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